IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 942 of 2005

Between:

Chekka Vijaya Kumari, W/o Appa Rao,
Shop No. 12, Vompolu Village, Munagapaka Mandal, Visakhapatnam

District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Visakhapatnam.
2 The Mandal Revenue Officer, Munagapaka Mandal, Visakhapatnam District.
3 The Deputy Tahsildar (Civil Supplies), Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 3rd respondent in Seizing the stocks of the Fair Price Shop of the Petitioner as illegal, unjust and against to the provisions of the Essential Commodities Act, 1955 and violative of principles of natural justice and consequently Set-aside the same including the proceedings C.S.C. No. 2/2005/C, Dt. 10-1-2005 of the1st respondent and pass such other order or orders

Counsel for the Petitioner: MR.B.DEVANAND

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

Petitioner is functioning as the dealer of a fair price shop of Vompolu village, Munagapaka mandal, Visakhapatnam district. Her shop was inspected by the Deputy Tahsildar (Civil Supplies), Visakhapatnam, the third respondent herein, on 25.12.2004. On the allegation that the petitioner committed certain irregularities in the matter of distribution of essential commodities, he effected seizure of certain stocks of kerosene, rice and sugar and initiated proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act'), before the first respondent. These stocks are said to have been handed over to the neighbouring dealer.

Taking into account the report submitted to him by the second respondent, the first respondent passed an order dated 10.01.2005 suspending the authorization of the petitioner, pending enquiry. The petitioner challenges both the proceedings.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

Though elaborate arguments are addressed touching the merits, in relation to the very seizure affected by the third respondent, this Court is not inclined to deal with the same. The proceedings are already initiated before the first

respondent under Section 6-A of the Act. The truth or otherwise of the allegations against the petitioner can be decided only in the said proceedings. To protect the interests of the petitioner, the sale proceeds of the seized commodities can be directed to be deposited separately and the first respondent can be directed to dispose of the proceedings under Section 6-A of the Act without any undue delay.

So far as the order of suspension passed against the petitioner is concerned, firstly, she can prefer an appeal under Clause 20 of the A.P. State Public Distribution System Control Order, 2001 against the same. Secondly, it cannot be said that there is total non-application of mind by the first respondent. Under the Control Order, initiation of proceedings under Section 6-A of the Act, is one of the grounds to suspend the authorization of a dealer. It is true that the first respondent is required to examine the matter independently and he cannot suspend the authorization simply on the ground that proceedings were initiated under Section 6-A of the Act. From a perusal of the impugned order, it is evident that the first respondent considered the matter in the light of the report submitted by the second respondent and the suspension was not exclusively on the basis of the initiation of proceedings under Section 6-A of the Act.

For the foregoing reasons, the writ petition is disposed of directing that the first respondent shall conclude the proceedings, initiated against the petitioner under Section 6-A of the Act, within a period of six weeks from the date of receipt of a copy of this order and the sale proceeds of the commodities seized from the petitioner shall be kept separately, which, in turn, shall be subject to outcome of the proceedings. There shall be no order as to costs.

28.01.2005

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To

1 The Revenue Divisional Officer, Visakhapatnam.
2 The Mandal Revenue Officer, Munagapaka Mandal, Visakhapatnam District.
3 The Deputy Tahsildar (Civil Supplies), Visakhapatnam.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad, (OUT).

5 Two C.D. Copies.